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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DENNIS MONTGOMERY, and the
MONTGOMERY FAMILY TRUST,

Plaintiffs,

v.

ETREPPID TECHNOLOGIES, LLC,
WARREN TREPP, and the UNITED
STATES DEPARTMENT OF DEFENSE,

Defendants.

AND ALL RELATED MATTERS.

3:06-CV-00056-PMP-VPC
BASE FILE

3:06-CV-00145-PMP-VPC

RESPONSE OF MICHAEL FLYNN TO
THE OBJECTIONS OF THE MONTGOMERY
PARTIES RE SANCTIONS
(DOCKET # 985)

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I. INTRODUCTION

The Montgomery parties' Objection filed by their omnipresent and conflicted lawyers - the Liner law firm - consists of the same strategic theme for which they have been collectively sanctioned - attack and blame Mr. Flynn for their own misconduct. In the first sentence of their Objection, they assert that in "or about July 2007, a full scale war erupted" between Mr. Flynn and Mr. Montgomery because Montgomery would not give Flynn an interest in Montgomery's \$100 million dollar fantasy technology. As usual, Montgomery and Liner mislead the Court. They are wrong about *their* dates, *their* chronology, the causes of their "war," and Mr. Flynn's interest in fraudulent technology. The factual record is clear. Mr. Flynn is the victim of the Montgomery fraud to cheat him and other lawyers out of \$630,000 in fees; and the target of the Liner firm's vexatious strategies to "crush him into submission." (Sanctions Order 45:24).

Like Montgomery's al Jazeera, "noise filtered" al Qaida "target coordinates," which the United States government determined was fraudulent or a scam, (and technology purportedly used in the war on terror when Edra Blixseth gave the "coordinates" to Vice-President Cheney in July 2006, and was flatly rejected), and like Montgomery's now admittedly fabricated "bribery emails," and like his now admittedly false March 10, 2008 "FBI Declaration," and his perjured September 10, 2007 Declaration, *they* routinely make things up. They point the finger at others - Mr. Flynn and now this Court - to conceal their own misconduct. Their Objection is permeated with bombastic and sarcastic attacks on Mr. Flynn - yet it is Mr. Flynn who has been cheated, and he who complied with the Rules. They did not. They now want Judge Cooke removed from the case. They give new connotations to the word "outrageous."

The legal term "fraud" is descriptive of their collective misconduct. In order to scoop the \$100 million dollars in July 2006, when Ms. Blixseth and Montgomery allegedly visited the Vice-President, they fabricated the "target coordinates" referenced in the Second West Declaration. (Search case #263, doc. # 70). When the government rejected them, Ms. Blixseth initiated a media "war" against "the Republican party" (See emails, sealed, attached to doc.#664,667,683,698). Their Objections perpetuate their fraud. It is permeated with false and/or misleading statements and twisted rhetoric not rising to the level of argument. They give no transcript or exhibit citations to any of the hearings, declarations

1 or pleadings. In fact, given the true facts as found by Judge Cooke, their Objection is contemptuous.
2 Given their attack upon Judge Cooke requesting removal, it is demonstrative of an arrogance generally
3 associated with some criminal defendants.

4 In Montgomery's and Edra Blixseth's "war," the Liner firm were the joint Chiefs of Staff, Ms.
5 Klar, the General, and Ms. Pham, the Commanding Officer suborning the perjured September 10, 2007
6 Montgomery Declaration. Each and everytime they launched a vexatious pleading or false Declaration,
7 it was part of *their* war to attack Mr. Flynn, beginning on August 3, 2007 when they sued him in Los
8 Angeles because he contested *under seal* their right to the client files without posting a bond for the
9 unpaid fees. Their war expanded against this Court in the Spring of 2008 when they repeatedly ignored
10 and violated more court orders requiring discovery. Only when this Court began imposing fines of
11 \$2500 per day and the subsequent disappearance of Ms. Klar, was their a tempered shift away from
12 their vexatious arrogance - and then only to shield the Liner firm from liability and damages. The shift
13 in Liner's strategy, blaming Montgomery in the Trepp settlement, itself compels an inference of their
14 manipulative misconduct.

15 What they now call "attorney bickering" is to further cover-up their contemptuous, unrelenting
16 and pervasive misconduct.

17 Before they filed their *pro hac* appearances in this Court on August 14, 2007 (Doc. # 233, 234,
18 235) they had the benefit of over *four* months of representing Edra Blixseth in matters relating to
19 Montgomery's technology including the transfer of the technology from Opsprings to Blxware; and
20 they engaged in meetings with Montgomery and formulated their "strategy" for over two months before
21 filing appearances to initiate a war against Mr. Flynn. Ms. Klar even filed a Declaration in July, 2007
22 conditioning withdrawal on the files before she filed an appearance. (Doc. #210, 213, 214, 220). Their
23 August 3, 2007 "sneak attack" complaint in Los Angeles started their "war" when Mr. Flynn had
24 engaged in no affirmative or aggressive action whatsoever other than to withdraw, and request
25 application of Nevada law *under seal* relating to his fees and files. After filing that complaint, they
26 expanded their war to four separate forums all designed to circumvent Nevada jurisdiction using perjury
27 as their primary weapon.

28 Montgomery and Liner have been collectively sanctioned for "perjury," "contempt," "deceit,"

1 “material misrepresentations,” “stunning misrepresentations,” “material omissions,” “half-truths,” and
 2 a “vexing pattern” of “litigation misconduct” that the Liner firm “acquiesced to or willingly carried
 3 out.” (Order #985, 40:13- 19; 41:1-48:19). Their Objection is more of the same.

4 The government may have been defrauded of millions of dollars by Montgomery; but except
 5 for scrupulous adherence to the law and facts by this Court, as cited in the Sanctions Order, and
 6 compliance with the Rules by the withdrawing lawyers, this Court would have been defrauded of its
 7 Article III constitutional charge - apply the laws of the U.S. for the purpose of administering justice.
 8 The sanctioned parties consistently attempted to obstruct and to undermine the administration of justice
 9 by defying Court Orders, filing false and perjured pleadings, and vexatiously employing strategies to
 10 carry on their “war.” Mr. Flynn and two other lawyers were defrauded of almost \$630,000 in fees, and
 11 now *two years* of incessant work attempting to fulfill their ethical duties under the Nevada Rules of
 12 Professional Conduct, including Rule 3.3, while the Liner firm billed almost \$8 million to circumvent
 13 the rules and defy Court orders.¹ Justice mandates the imposed sanctions.

14 Notwithstanding the Liner / Montgomery rhetoric - devoid of fact and law - attacking Judge
 15 Cooke, her jurisdiction to decide these issues and facts, her 54 pages of detailed Findings and
 16 Conclusions, and Mr. Flynn as their penultimate “target,” the only Court to resolve all of these issues
 17 is this Court - both the Magistrate Judge, and the Article III Judge. The facts and circumstances
 18 involved herein, not the least of which are the state secrets issues, along with the jurisdictional protocols
 19 of 28 U.S.C. §§ 631 *et seq.* mandated that *this* Court - both judges - exclusively control these cases.

20 It is *this* Court and its jurisdiction over the facts giving rise to the sanctions that the Liner /
 21 Montgomery cabal sought to defraud, sought to defy, sought to vexatiously multiply its proceedings,
 22 and sought to obstruct, through perjury. Throughout these proceedings this Court upheld Judge Cooke’s

23
 24 ¹ Ms. Garofalo and Liner sarcastically belittle Mr. Flynn’s “new found interest in the integrity
 25 of the judicial proceedings [as]ironic” referencing the state secrets privilege and Flynn client files. As
 26 stated above, months *before* they appeared, they had the unsealed FBI files including the Second
 27 Declaration of Michael West exposing the “target coordinate” fraud, all of Montgomery’s email files,
 28 access to all of the Logar files - almost identical to Flynn’s files except for the period pre-dating Flynn’s
 appearance on February 7, 2006 at the preliminary injunction hearing. In July, 2007 they also had Atty
 DiMare’s files. They *knew* Montgomery was a fraud when Flynn did - in late June, 2007. Thereafter,
 they chose to *use* his fraud to make over \$7 million dollars in fees. Flynn chose to withdraw jeopardizing
 \$630,000 in fees to comply with the Rules. See July, 2007 Docket #’s relating to Flynn withdrawal. 203,
 204, 205, 206, 207, 210, 209, 210, 213, 214, 220. Flynn complied with Rule 3.3. Liner did not.

1 Orders and rulings because it knew from the record that she scrupulously applied the law to the facts
 2 in the face of contemptuous misconduct by the Liner firm. The Liner / Montgomery Objection is
 3 *brazen* in its distorted rhetoric; and contemptuous in its underlying themes accusing Judge Cooke of
 4 abusing her “inherent powers,” failing to make the “requisite findings of the reasonableness” of the
 5 Flynn fees, and erroneously imposing “joint and several liability,” and seeking her removal (Ob. 2:11-
 6 16, 20-21) They accuse Mr. Flynn of being the instrument misleading Judge Cooke. This Court’s close
 7 attention to these cases over the past two years, and what has transpired, and a careful review of the
 8 entire record will compel the conclusion that Judge Cooke’s Findings and Sanctions Order must be
 9 upheld; and that the sanctions are modest and less than what they deserve.

10 **II. ARGUMENT**

11 **1. The Accurate Dates, Facts and Chronology Prove that the “War” Was Started, and** 12 **Pursued with a Vengeance, by Liner, Montgomery and Blixseth to “Crush” Mr. Flynn.**

13 Montgomery and Liner have their baseline chronology wrong on which they hinge their
 14 justification to attack Mr. Flynn as the aggressor; and dishonestly argue that he improperly misled
 15 Judge Cooke by accusing Montgomery of “fraud” and “perjury” and Liner of complicity in his
 16 Sanctions Motion. (Ob. 2, 14-16). Most of the sanctioned parties misconduct cited in the Sanctions
 17 Order occurred *before* this Court issued its fee Order on March 24, 2008, (doc. # 540), and was
 18 designed to circumvent this Nevada Court’s September 4, 2007, October 4, 2007 and October 12, 2007
 19 Orders. (Order #985, findings 1-143).

20 The chronology of facts found by Judge Cooke is precise and important to an analysis of the
 21 rhetoric in the Montgomery Objection. (Order #985, findings “FF” 1-143, p. 41:19-20). This Response
 22 will reference the underlying record supporting those Findings in order to further disprove the
 23 Objection’s primary points. As recited in the Sanctions Order, until the filing of the Sanctions Motion
 24 and Rule 3.3 Motion in mid-April, 2008 the Court did not have all of the facts warranting sanctions.
 25 (Order #985, FF #52). In the fee and file litigation in the Fall of 2007, Mr. Flynn only filed limited
 26 facts, and then under seal, which he gained from his representation, in order to litigate the Motion for
 27 Fees; and also necessary to defend against allegations made in the Liner / Montgomery Liner four
 28 forum campaign to “crush” Mr. Flynn..

1 At the present, due to the Trepp settlement, the Rule 3.3 Motion became moot, and the summer
2 long 2008 evidentiary hearings relating to the scope of Montgomery's perjury and fraud, and of the
3 Liner Firm's complicity, has never been resolved. The true facts are that Ms. Pham, Ms. Klar, the Liner
4 firm and Montgomery avoided millions of dollars in sanctions, potential disbarment and even potential
5 indictment by confessing \$ 25 million dollars in judgments. That fact speaks for itself and it reflects
6 the magnitude of the penalties they evaded for their appalling misconduct. Their current Objections
7 essentially attempt to cover up the misconduct they concealed by confessing the judgments. This Court
8 should strongly consider attributing subornation charges against Ms. Klar and Ms. Pham and Liner in
9 the context of the perjury findings against Montgomery in the Sanctions Order

10 The Court ultimately decided the Flynn feemotion on March 24, 2008 (doc. # 502). Throughout
11 these cases, Mr. Flynn, like the Court, was in the middle of a "learning curve," discovering
12 Montgomery's fraud and then Liner's complicity and "stunning misrepresentations" perpetrated with
13 a vengeance and complicity relatively uncommon in civil cases. This is particularly apparent when the
14 attorneys have an unequivocal factual basis to know, as here, that their client was engaged in fraud.

15 The Montgomery technology "fraud" including his seven declarations signed under oath to
16 support his fraud, were *not* first exposed by Mr. Flynn. On April 9, 2007 this Court unsealed to the
17 lawyers the "Second Declaration of Michael West," (Search Case #263, doc. # 70) along with other
18 FBI reports including those reciting the infamous fake bazooka testing, Montgomery's purchase of
19 "open source code," and Ms. Gray's knowledge that Montgomery never wrote any significant software.
20 (Search case #263, Doc. # 70.) In those reports, the FBI exposed Montgomery's fraud in deceiving the
21 government that his technology was identifying a weapon through software interfacing with a camera,
22 when, in fact, he had the test results "wired" between himself and the keyboard operator. (Orders, doc.
23 # 142, 147, 159, 162; FBI Reports, doc. # 70).

24 Mr. Flynn immediately informed Montgomery and Blixseth, who then sent him to Washington
25 in an effort to keep the matter sealed, based on potential threats to their lives by al Qaida - more fraud.
26 For the weeks after the Court's unsealing exposing the fraud, Mr. Flynn was still trusting (and naive)
27 enough to believe their explanations that it was the Trepp/Gibbons political influence attempting to gain
28 possession of the technology by impugning Montgomery that caused the government to take certain

1 positions exposing the al Qaida “target coordinates”; and that their lives were in danger. Still believing
 2 them in late April 2007, Flynn flew to Washington and met with the DOJ asserting the alleged Trepp
 3 corruption and threats to their lives. During the same period, at the request of Edra Blixseth, Mr. Flynn
 4 wrote multiple drafts of the May 5, 2007 letter to VP Cheney marked under seal in the August 21, 2008
 5 evidentiary hearing, and marked as Ex. 1 to Flynn Declaration in support of the Reply to the Motion
 6 for Sanctions. The drafts and final version were emailed to Montgomery and Blixseth. See Flynn
 7 invoices for March - June 2007 filed *in camera* in November - December 2007 and not docketed, in
 8 support of the Motion for Fees reciting the weeks of work on this letter and the trip to Washington by
 9 Flynn and Carla DiMare. - part of the \$630,000 in fees and costs. See Ex. 1 to Flynn Declaration in
 10 support of reply to Motion for sanctions, doc. # 635.

11 The Cheney letter and Washington trip in April - May 2007 were major events - they claimed
 12 al Qaida would murder them; and Trepp was stealing the technology. In April - May 2007, Liner and
 13 Klar were representing Edra Blixseth; and had essentially taken over all of her legal affairs, including
 14 the filing of a Riverside, California law suit against her ex-husband on May 1, 2007. The May 5, 2007
 15 Cheney letter states on the letterhead: “**ADMITTED ONLY IN MASSACHUSETTS.**” Numerous
 16 other letters bearing the same letterhead admonition were delivered to Klar and Pham on August 8,
 17 2007, just three months after the Cheney letter. Ms. Pham and Ms. Klar knew exactly what the
 18 letterhead admonition meant months before they filed the perjured declaration.

19 Ms. Pham’s contention that Mr. Montgomery allegedly “didn’t understand” the difference
 20 between “admitted” and licensed,” is also contrary to the facts and the law and irrelevant. (Order #985,
 21 FF #88-94). Pham knew. (Id., FF 66-67, 91, 95). Pham and Klar are lawyers. Counsel cannot blindly
 22 accept statements that are implausible without investigating or seeking corroboration. *Childs v. State*
 23 *Farm Mut. Auto Inc. Co.*, 29 F.3d 1018, 1026 (5th Cir. 1994) [interpreting Rule 11]. It is ludicrous on
 24 such a material jurisdictional issue supported only by the perjured declaration they filed, that their
 25 client Montgomery “didn’t understand” after consulting with them.

26 The Court’s April 9, 2007 unsealing accelerated the “learning curve” experienced by this
 27 Court, Mr. Flynn and the government. As of May 21, 2007 when Mr. Flynn emailed Blixseth about
 28 “controlling” Montgomery, (Blixseth then “fired” Flynn that night), it accelerated Blixseth’s and

1 Montgomery's learning curve that Flynn was becoming aware of the fraud based on his dealings with
 2 the government and subsequent discussions with Montgomery, including Montgomery's pending
 3 subpoena to deliver his hard drives containing the "bribery emails" to the Grand Jury. Mr. Flynn had
 4 begun his own investigation resulting in internal discussions with Montgomery.

5 These discussions ultimately conclusively proved to Mr. Flynn that he had a duty to withdraw
 6 and duties under Rule 3.3. The emails, documents and FBI reports relating to these issues, and the
 7 Cheney letter, and related subjects were in Liner's possession in June 2007, *two* months before they
 8 filed appearances. See some of these emails at Docket # 277-284, including the May 21, 2007 email
 9 to Blixseth. They started their war on August 3, 2007 attacking Mr. Flynn knowing that an almost
 10 conclusive factual basis existed proving that Montgomery was a perjurer and a fraud, and that his
 11 purported technology was a hoax. With this knowledge, they went on a campaign of legal terror.

12 On September 17, 2007, approximately a month after their appearances, the Court unsealed
 13 the case, (doc.# 270), along with the aforesaid FBI materials to the public. During the prior month, Mr.
 14 Flynn had delivered to them unimpeachable evidence that Montgomery would have to commit perjury
 15 for them to use his September 10, 2007 Declaration in order to invoke California jurisdiction.

16 **(a) The Motion to Withdraw - Montgomery Response - Sue Mr. Flynn**

17 The Montgomery parties and their lawyers attempt to justify their sanctioned conduct by
 18 contriving in their Objection yet more fictions to assault Mr. Flynn that are contrary to the established
 19 facts. Mr. Flynn informed this Court under seal on July 17-31, 2007 - before their "war" started - in
 20 a generic reference without any details or facts in support of his Motion to Withdraw - which they
 21 contested based on the client files - that he had a duty to withdraw under Nevada Rules of Professional
 22 Conduct 3.3. *Three days later*, on August 3, 2007 they started their "war" by suing Mr. Flynn in Los
 23 Angeles based on false statements in their complaint that Flynn falsely led Montgomery to believe that
 24 he was a California lawyer, *and never informed him that he was only a Massachusetts lawyer*. If the
 25 Liner lawyers had simply gone on line and read some of the pleadings in this case *before* they sued Mr.
 26 Flynn, then they would have known that their lawsuit was frivolous and improper.

27 **(b) The Perjured Declaration and the Documents Delivered on August 8, 2007.** The
 28 foregoing lie turned into perjury in this Court on September 10, 2008 when they filed Montgomery's

1 Declaration making the same statements under oath. As of August 8, 2008, a *month before* they filed
 2 the perjured declaration in this Court, Ms. Pham, Ms. Klar and Montgomery received conclusive
 3 evidence that Montgomery *knew* “throughout the representation” period that Mr. Flynn was not licensed
 4 in California. See Reply to Fee Motion, doc. #s 277, 278, 279, 280, 281, 282, 283; Order #985, FF 80-
 5 95, and Pham’s admission (FF 95 citing Tr. 181 - 182), that she reviewed documents *before* preparing
 6 the perjured declaration establishing Montgomery’s knowledge that Flynn was not licensed in
 7 California. Her testimony on this subject is contradictory and evasive at best. (Order #985, FF 89 - 95).

8 The comprehensive Findings of Fact, docket, declarations, evidentiary hearing and entire record
 9 uniformly disprove every “fact) (there are no transcript or exhibit citations), they assert upon which to
 10 make their Objections. The bottom line as found by the Court is that they started and perpetuated the
 11 “war” on August 3, 2007 by suing Flynn in Los Angeles Superior Court in order to circumvent this
 12 court’s jurisdiction, while repeatedly violating 28 USC § 1927, and brazenly defying the Court and
 13 its Orders. Their vengeance toward Flynn had no bounds then and now. The application of this Court’s
 14 inherent powers to prevent such manifestly abusive litigation tactics was not only warranted, it was
 15 mandatory to stop the Liner firm and Montgomery from making a mockery of our system of justice.

16 **(c) The Court’s Learning Curve.** The detailed chronology and findings in the Sanctions
 17 Order demonstrates a learning curve essential to an analysis of the Order. As the Findings, docket, and
 18 emails under seal conclusively establish, (doc. # 277- 283), until Montgomery sued Flynn in the Los
 19 Angeles Superior Court on August 3, 2007, all of the prior *three months* of conflicts were *internal* to
 20 the parties, (*id*), with no *external eruption*, and there were no issues whatsoever involving Flynn’s
 21 interest in the now obviously fraudulent technology. (Order #985, p. 9-11, FF #46-59; e-mails,
 22 doc.#277).

23 The dispute arose internally between the parties because of unpaid fees, and disputes over
 24 Montgomery’s allegations to his attorneys, the parties and the Court. The Court was in the dark. It
 25 then evolved to the next stage with the Liner campaign to wage a multi-jurisdictional “war” on Flynn
 26 as found by the Court. Even in the fall of 2007, when Liner had caused their “war” to “erupt by
 27 attacking Mr. Flynn in four forums across the country, essentially accusing him of criminal conduct,
 28 this Court was mostly in the dark. It only surfaced in detail in this Court when Mr. Flynn responded

1 by filing his Motion for Sanctions and Rule 3.3 Motion in mid-April, 2008.

2 **(d) Mr. Flynn's Learning Curve.** As of April 9, 2007, when this Court unveiled the FBI
3 reports, Mr. Flynn was starting along the "learning curve" relating to Montgomery's issues with the
4 truth. He began conducting an investigation - independent of Montgomery and Edra Blixseth - which
5 ultimately led to his expressed intent to withdraw in late May - June 2007 as more and more facts were
6 unearthed. As the record plainly proves, unpaid fees, Montgomery deceit, and Mr. Flynn's duty to
7 withdraw under Nev. R. Prof. Con. 3.3 led to the withdrawal. See billing records *in camera* for May -
8 July 2007; see emails under seal as Exhibit 5 to Reply to Fee Motion, docket # 277 and 278 - 283; see
9 Motion to Withdraw, (doc. # 208), and Reply, (doc. # 214 under seal).

10 **(e) Liner's Knowledge of Montgomery's Perjury Was Complete in July 2007 . No**
11 **Learning Curve Was Required to Initiate Its "War."**

12 The Liner Objection filed on behalf of Montgomery undercuts any vestige of credibility
13 remaining in either them or their clients. There are critical dates along *their* "learning curve," from
14 the inception of their representation in June - July 2007, which conclusively establishes the
15 Montgomery / Liner complicity to defy Court Orders, to file knowingly false, fraudulent and even
16 perjured declarations - not just the September 10, 2007 sanctioned Declaration, and routinely make
17 false statements in pleadings and in Court hearings. As of July, 2007, they had the benefit of all of
18 Montgomery's files, the Logar Firm's files, and Ms. DiMare's files, including thousands of emails
19 detailing almost every aspect of the cases. The key dates in this chronology involving specific material
20 facts indisputably in their possession are:

- 21 ● April 2007. Liner and Ms. Klar commenced representing Edra Blixseth in all of her legal matters
- 22 including litigation involving Ms. Blixseth's ex-husband and her claimed 100 percent ownership of
- 23 Opspring/Blxware and Montgomery' purported technology.
- 24 ● June 2007 Montgomery was consulting with Liner and Ms. Klar. Mr. Flynn sent repeated emails to
- 25 Montgomery expressing his intent to withdraw for unpaid fees and Montgomery's misconduct.
- 26 ● July 9, 2007. Mr. Flynn files a neutral, generic motion to withdraw.
- 27 ● July 17 - 31, 2007. In response to Ms. Klar's declaration and pleadings, Mr. Flynn filed a neutral,
- 28 generic Response under seal without informing the Court of the Montgomery misconduct, but

1 referencing his Rule 3.3 obligations.

2 ● August 3, 2007. Ms. Pham filed the Montgomery complaint against Mr. Flynn in California alleging
3 that Flynn led Montgomery to believe he was a California licensed lawyer; and never informed him that
4 he was “only” licensed in Massachusetts. Five months before this filing, Montgomery filed his
5 declaration in the search case admitting knowledge of the Flynn bar license facts.

6 ● Before they filed the Los Angeles complaint the Liner lawyers could have easily checked the
7 pleadings in this case on-line, and they would have seen the multitude of pleadings showing their
8 complaint was frivolous and improper.

9 ● August 8, 2007. Liner and Montgomery received indisputable documentary proof that Flynn never
10 led Montgomery to believe he was a California lawyer - in fact they then possessed indisputable
11 evidence *on this Court’s dockets* that he explicitly informed Montgomery on February 28, 2007 that
12 he was only licensed in Massachusetts. This docket was hand delivered to Pham and Klar on August
13 8, 2007 (Sanctions Hearing Ex. 3, 4, 5; Order #985, FF 66, 67, 91, p. 3:3-40:19, 41:6-10).

14 ● August 17, 2007. Ms. Klar admitted in the withdrawal hearing that she had possession of
15 Montgomery’s files and emails. (Order #985, 38:18- 40:19). Those files and emails contain thousands
16 of emails between Montgomery and Flynn, including those between April 9, 2007 and July 28, 2007
17 which evidenced Montgomery’s proclivity to lie when compared with earlier emails; and contain
18 attachments of documents relating to Montgomery’s daily receipt of almost everything in the cases.
19 This admission also proves Liner’s possession of the Flynn emails in Evid. Hear Exhibit 5 transmitting
20 Mr. Flynn’s February 28, 2007 declaration explicitly stating that Flynn was not licensed in California
21 and only licensed in Massachusetts. They possessed this knowledge weeks *before* they filed the perjured
22 declaration.

23 ● September 4, 2007. This Court issued its withdrawal Order upholding Nevada law requiring the
24 posting of a bond for unpaid fees in order to obtain client files. The Liner firm knew that this Court had
25 ruled that Nevada law applied to the fees and files; and that to escape Nevada jurisdiction they needed
26 a sworn declaration from Montgomery conferring jurisdiction in California - so they suborned his
27 perjury. (Order #256)

28 ● September 10, 2007. Pham and Klar prepared and secured Montgomery’s signature on the perjured

1 declaration while in possession of incontrovertible evidence that Montgomery knew that Flynn was
 2 “only licensed in Massachusetts.” As lawyers reviewing the mountain of documents previously
 3 delivered to them by Mr. Flynn, they knew that Montgomery had possession throughout the Flynn
 4 representation, including letterheads, that explicitly informed Montgomery of the material facts. As
 5 lawyers, they knew that they were suborning perjury. (Doc. # 261)

6 ● October 4, 2007. This Court denied Liner’s Motion for Reconsideration ruling that the September
 7 4, 2007 Order is “clear and unambiguous.” They were invited to file a motion for the files *in this court*
 8 under Nevada law. They knew the fees and files were subject to Nevada law; and that Flynn had
 9 undertaken representation of Montgomery solely in Nevada under a Nevada *pro hac* admission. (Order,
 10 Doc. # 291)

11 ● October 12, 2007. This Court ruled that it had jurisdiction over the fees and files, recited the Court’s
 12 September 4, 2007 Order, noted the Liner firm’s efforts to circumvent it, and ordered the Liner firm to
 13 deliver its Order to the judge in Los Angeles presiding over the Liner Writ of Possession Motion
 14 scheduled for October 18, 2007. The Court established a briefing and procedural schedule for the fee
 15 motion. Liner and Montgomery file no objections. (Order, Doc. # 296)

16 ● October 18, 2007. Klar and Pham repeatedly misrepresented facts to the Los Angeles court hearing
 17 their writ of possession. Their misrepresentations are so material and so voluminous, the sanctions
 18 Order covers seven pages with Findings (p.25-31), numbers 122 through 140. Rather than repeat these
 19 Findings, the Klar / Pham deceit is so manifest from the court transcript cited by Judge Cooke, nothing
 20 can be added.

21 ● November 21, 2007. The Los Angeles Superior Court dismissed the Liner / Montgomery case
 22 stating: **“The case is before a California court for the transparent purpose of having this court**
 23 **countermand the orders of the Nevada District Court. California has no interest in doing so.”**
 24 Klar and Pham had filed and made all of the same arguments in California they made in their Objection
 25 here regarding Mr. Flynn ‘s contacts with California. That court reviewed these same arguments and
 26 alleged facts and effectively concluded that “California had no interest” in Mr. Flynn’s involvement in
 27 the Nevada cases and its orders in his representation of Montgomery. Judge Cooke highlighted these
 28 findings in her Findings of Fact. (FF # 143.)

1 • November - December 2007. Klar and Pham file and receive numerous *in camera* filings relating
2 to the fee motion, including the fee invoices detailing Mr. Flynn's representation of Montgomery in
3 Nevada; and demonstrating Mr. Flynn's April - June investigation *in detail* relating to Montgomery
4 fraud and deception. They reviewed these bills in July 2007 before they appeared and knew that the
5 objective evidence resulting from the Flynn investigation proved Montgomery's fraud and previous
6 perjury. See *in camera* fee filings, undocketed.

7 • March 10, 2008. Liner filed two Montgomery declarations, including the infamous FBI declaration
8 accusing them of stealing and damaging his technology. Mr. Flynn *knew* it implicated his Rule 3.3
9 duties. The Liner firm knew it was perjured because they had Flynn's and Montgomery's emails and
10 Flynn's bills when he questioned Montgomery between April 9, 2007 and June 24, 2007, particularly
11 emails in late May 2007 relating to Montgomery's subpoena to produce his hard drives to the Grand
12 Jury relating to the "bribery emails." Only someone participating in the fraud and concealing it would
13 not discern the true facts, and intentionally perpetuate it by filing the March 10, 2008 declaration. At
14 that point, under the NRPC, Mr. Flynn had a duty to file his Rule 3.3 Motion. Liner was later compelled
15 to admit, on September 5, 2008, knowing that they and their clients were facing potentially millions
16 of dollars in sanctions, that the declaration was false and Montgomery was 'mistaken.' Their clients
17 confessed \$25 million in judgments, while they continued to bill, rolling up almost \$8 million in fees.
18 This Court should modify Judge Cooke's order and impose the additional \$200,000 in hourly fees
19 expended by Mr. Flynn and Ms. DiMare sought in the sanctions motion.

20 • March 24, 2008. Judge Cooke decided the fee motion awarding Mr. Flynn approximately \$630,000
21 in fees. The Liner firm and Montgomery did not file any objections to the order. The Liner firm knew
22 then that the Court had rejected their defenses to the fee motion including their jurisdictional defenses.

23 • April 18 and 24, 2008. The Motion for Sanctions and Rule 3.3 Motion were filed accompanied by
24 extensive declarations and exhibits. The Liner firm learned conclusively that Montgomery was engaged
25 in a fraud with their other client, Blixseth, and had committed perjury, and that Klar and Pham had
26 suborned it. The evidence was indisputable. The subsequent confessions of judgment for \$25 million
27 after Liner admitted the falsity of the March 10, 2008 declaration compel, an inference of knowledge
28 on the part of the Liner firm that the previous conduct of its partners, Pham and Klar, was sanctionable

1 *before* they embarked on the evidentiary hearings and contempt matters in May - August 2008, in which
 2 they continued to employ vexatious strategies to “multiply the proceedings.”

3 • May - August 2008. OSCs issued by the Court for Liner’s continued defiance of Court orders.
 4 Evidentiary hearings occur in which evidence accumulates that Liner is continuing to employ vexatious
 5 strategies to multiply the proceedings, contemptuously defy orders, and to suborn testimony by
 6 Montgomery, later admitted to be false. In July, the Court imposed \$2500 per day fines in the face of
 7 outright defiance of its Orders.

8 • September 5, 2008. Notwithstanding Montgomery’s sworn testimony in the five days of evidentiary
 9 hearings Liner admitted that the March 10, 2008 declaration of Montgomery is false; and requested a
 10 settlement conference.

11 • September 2008. At the Trepp settlement conference, Liner’s clients, Montgomery, Blixseth and
 12 Blxware confess to \$25 million in judgments, including \$5 million for causing “media damages” to
 13 Warren Trepp, notwithstanding Montgomery’s previous sworn testimony and multiple declarations.

14 • January 2009 Flynn settlement conference. The Court has the *in camera* filings. No settlement is
 15 reached. The Court later denied Mr. Flynn’s Motion for sanctions relating to the settlement issues.
 16 (Order, Doc. # 1029)

17 The Liner firm was in possession of indisputable evidence at all critical dates along this
 18 chronology that Montgomery knew Flynn had informed him throughout the representation that he was
 19 “only” licensed in California, that the government deemed Montgomery’s technology to be fake, and
 20 that he had repeatedly lied under oath to this Court with the assistance of Ms. Klar, Ms. Pham and other
 21 Liner partners.² Mr. Flynn filed his Rule 3.3 Motion on April 18, 2008, so as not to prejudice the
 22 Court on the Fee Motion; and because Montgomery / Liner had filed four additional plainly false
 23 Montgomery Declarations. (Doc. # 540).

24
 25 ² Ms. Garofalo swears under oath that there are over 600 fraud references in the pleadings. Given
 26 the volume of pleadings, declarations, transcripts, the hearings throughout the summer of 2008, and
 27 exhibits, in which Montgomery and his lawyers lied, no less than six false and plainly fraudulent
 28 Declarations, and the confession of judgment for \$5 million dollars by Montgomery for “media”
 damages; and \$20 million dollars for software related damages - notwithstanding the six false
 Declarations, and given the Court’s Findings of Fact in the Sanctions Order, and subsequent admissions
 by the Liner firm in the Trepp settlement, the 600 references may be understated. Indeed, the magnitude
 of “fraud” involving and hidden within state secrets matters may be unprecedented.

1 **2. The Liner Conflicts and Complicity in Montgomery's Perjury Undercut the Objections**
 2 **They Filed for Montgomery..**

3 The Liner firm should not have filed the Montgomery Objection. It is a continuation of the
 4 "vexing" and "consistent pattern of gamesmanship, misrepresentations, and outright contempt of this
 5 court and its orders," of "stunning" and "material misrepresentations" found by the Court in the Order,
 6 and violation of the Nevada Rules of Professional Conduct. (Order 37:16-22; 42:3-4) Pursuant to Rule
 7 3.3, they owed the Court a duty to withdraw; and a duty to Montgomery to inform him that they could
 8 not continue representation. Prior to the Trepp settlement, they owed duties to the Court on at least *ten*
 9 of the critical dates recited above, to comply with Court Orders, refrain from making overtly false
 10 statements in the face of incontrovertible evidence, acknowledge their own complicity in Montgomery's
 11 fraudulent statements *before and after* making them, and to refrain from continuously pursuing
 12 vexatious strategies defying not only multiple Court Orders but multiple warnings over a period of 12
 13 months to cease and desist.

14 At the present time, and for purposes of filing an Objection for Montgomery, knowing that they
 15 have been jointly and severally sanctioned with him, they *know* that any factual representations *they*
 16 make on behalf of Montgomery are not credible; and conflicted by their collective misconduct with
 17 him. They are also conflicted by the apportioned sanctions. Yet they continue representing him
 18 without apparent compensation (according to Montgomery's latest sworn statements, he has no money,
 19 no job, and no assets) in order to conceal their own participation in their joint and several misconduct.
 20 Yet they *know* that Montgomery received a total of over \$5 million from their other client, Edra
 21 Blixseth, which should have been used to pay Mr. Flynn's legal fees and the sanctions. In the process,
 22 Liner has billed approximately \$8 million in fees to mount an unfounded and vexatious "war."

23 The Liner firm's filing of the Montgomery parties Objections is conflicted based on the
 24 Findings of Fact in the Sanctions Order. (Order # 985). Their joint and several liability with their client
 25 for *their* adjudicated unethical conduct should have prohibited them from continued representation.

26 Their sanctioned violations of the ethical rules encompasses *their* "war" based on a failed
 27 strategy of deceit, material misrepresentations, material omissions, manufactured evidence, fraud on
 28 the court, and perjury against Mr. Flynn to "crush him into submission." (Sanctions Order ["Order"]

1 at 43:6-9; 44:18 - 48: 7) As found by Judge Cooke, they have engaged in “stunning misrepresentations
 2 of this Court’s Orders.” (Order 42:3-4). Their “war” has no place in our jurisprudence. The sanctions
 3 imposed by Judge Cooke are exhaustively supported in the record with clear and convincing evidence;
 4 and in these circumstances are mandatory to preserve confidence in our system of justice. (Order, 47:
 5 11 - 49:17). The Court should afford little if any weight to representations in their Objections they now
 6 make for Montgomery.

7 In the August 21, 2008 evidentiary hearing, Judge Cooke expended almost ten hours weighing
 8 the testimony, credibility and appalling contradictions, evasions, deceptions and excuses of Ms. Pham
 9 and Montgomery. Judge Cooke examined Ms. Pham with detailed and specific questions. A careful
 10 review of that record and the exhibits introduced therein, along with the Motion for Sanctions, Reply
 11 and accompanying declarations and exhibits, establishes beyond doubt, that this Court must affirm each
 12 and every finding and conclusion of Judge Cooke’s Sanctions Order. The collective evidence recited
 13 in Judge Cooke’s findings, based on hearing the actual testimony of Montgomery and the Liner firm’s
 14 representative - its partner - Ms. Pham, cannot with any rational analysis, be disputed.

15 Judge Cooke defined the Liner / Montgomery “war” as “scorched earth litigation tactics that
 16 undermines citizens’ confidence in our courts and our system of Justice.” (Order. # 985, p. 48:3-6.).
 17 There is no other logical conclusion. The Liner effort to blame Mr. Flynn smacks in the face of the
 18 Court’s findings. That is what Judge Cooke painstaking concluded after almost *two years* of work. The
 19 record conclusively supports the nationwide judicial effort to curb deceit, manufactured evidence, fraud
 20 on the courts, and even perjury, all growing with alarming frequency in this country. The Montgomery
 21 / Liner continued strategy in their Objection provides more evidence for *this* Court to justify the
 22 sanctions, *and consider increasing them*. Montgomery’s current sworn status of no job, no income and
 23 no assets (doc. # 1084 in connection with pending motions to compel) as a “brilliant” software
 24 designer compels a finding that his purported “noise filtering” technology deciphering al Qaida “target
 25 coordinates” is a hoax. If it were true, given the money spent in the war on terror, Montgomery would
 26 be a billionaire and the DOD would be treating him like Einstein. Blixseth’s recently unsealed payments
 27 to Montgomery of \$600,000 payment in February, 2009 (doc. # 1085-1087) also cast doubt on
 28 Montgomery’s sworn statements about his current financial status. The payments may also evidence

1 a cover-up of their collective misconduct.

2 The client file issue is a red herring. As seen in the Responses to the Klar and Pham Objections,
 3 Montgomery had possession of the client files from Carla DiMare, from the Logar Firm, from the on-
 4 line docket and in thousands of emails as Klar admitted in response to a question of Judge Pro on
 5 August 17, 2007. (Order, #985, FF # 68, p.38:18-40:19). When the Liner firm was proffering that
 6 excuse, Montgomery was in fact not deprived of any defenses, he was not entitled to the Flynn files
 7 under Nevada law, he had received over \$4 million dollars from Blixseth as of September 2007, he was
 8 receiving \$100,000 per month as part of his scam - thus able to pay the fees, (Flynn Dec. doc.#904,
 9 par.4 and Ex. 1[Montgomery testifies he received \$100,00 per month as of June 2008]); and it was
 10 imperative for *this* Court to adjudicate all of the issues relating to the fees, files, and sanctions, given
 11 the state secrets issues underlying these cases.

12 Montgomery and Liner injected the “inflammatory” issues into these cases by their pattern of
 13 abusive litigation tactics as found by Judge Cooke *during the fee motion proceedings* and in their effort
 14 to circumvent Nevada law and Court orders on the files. Montgomery and Liner made their own bed
 15 of deceit, fraud and patterned misconduct - not Mr. Flynn. The unsealed FBI reports and subsequent
 16 government disclosure of Montgomery’s al Qaida claims in Agent West’s unsealed declaration, the
 17 now admittedly false, sworn statements of Montgomery in his March 10, 2008 FBI declarations
 18 submitted by Liner knowing his pattern of deceit - that the FBI had stolen and damaged his technology
 19 - and the findings of Judge Cooke relating to Montgomery’s perjury and Liner’s misconduct, all prove
 20 that their unrestrained efforts to avoid payment of the fees by relentlessly attacking Mr. Flynn, led the
 21 Court to imposing sanctions on motions filed *after* they had engaged in an eight-month “war.”
 22 Montgomery had millions of dollars to pay the fees - his greed and Liner “scorched earth” strategies
 23 were designed to thwart justice.

24 **3. Montgomery’s September 10, 2007 Declaration is Perjured. Judge Cooke’s Findings are**
 25 **Detailed, Based on Percipient Witness Evaluation, Conclusive and Dispositive.**

26 Judge Cooke observed and evaluated Montgomery under oath at the August 2008 hearing and
 27 concluded he was not credible in his denial of the incontrovertible facts and documentary evidence
 28 proving perjury. (Order #985, FF # 1-44, 59-67, 80-95, p. 46-48). The Court specifically found that

1 paragraph seven of Montgomery's declaration stating under oath that Flynn never informed him that
 2 Flynn "is only licensed to practice in Massachusetts" was materially false; and that Flynn specifically
 3 informed him of this fact on letterheads and in documents he had read, including Flynn's February 28,
 4 2007 declarations; and that Montgomery swore under oath in *his* February 28, 2007 declaration that he
 5 had read Flynn's declaration stating this critical fact. (Id., FF #80, 82). The Court found that
 6 Montgomery knew that Mr. Flynn was only licensed in Massachusetts and that his testimony about not
 7 understanding the difference between "licensed" and "admitted" was "inconsistent and not credible."
 8 (Id., FF #86, #85-89). The Court weighed all of the evidence, made detailed Findings and concluded:

9 "Finally, the court concludes that Mr. Montgomery's September 2007 declaration contained
 10 untrue statements, which he knew were untrue, and that this declaration was filed in bad faith
 11 and for the improper purposes of attempting to manipulate these proceedings to gain a tactical
 12 advantage, to harass Mr. Flynn, his former counsel, and to subvert orders of this court."
 13 (Sanctions Order, 1:25 - 2:3)

14 Based on the evidence, there is no other conclusion to draw. The proof meets the criminal
 15 reasonable doubt standard. The exhibits and testimony of Ms. Pham and Montgomery at the evidentiary
 16 hearing, the established and mostly un-rebutted facts in the Motion for Sanctions and Reply - with no
 17 declaration from Montgomery, and the totality of evidence support a finding of perjury by not only
 18 clear and convincing evidence, but beyond a reasonable doubt. The evidence is the following:

19 (a) The *documentary* proof *repeatedly* submitted to Montgomery's lawyers *before and after*
 20 they filed the perjured declaration establishes that Montgomery knew at the beginning of the
 21 representation in January - March 2006 that Mr. Flynn was *only* licensed in Massachusetts, had a
 22 California residence and then a California partner, and had explicitly discussed the issues relating to
 23 his Massachusetts license and California residence with Montgomery: (i) at the beginning of the
 24 representation; (ii) at least three times in the presence of others; and (iii) when the government filed
 25 a Motion to Disqualify Mr. Flynn from the search case in February, 2007 *based on the specific issues*
 26 of a Massachusetts license and a California residence with **NO** license, which Montgomery swore
 27 under oath he had read, understood, and opposed. By August 8, 2007, the Liner lawyers had
 28 "extensive documentation" from Mr. Flynn which incontrovertibly proved that the California complaint
 concocted by Klar and Pham just days earlier was a sham. (See Montgomery & Flynn February 28,

1 2007decls., hearing Ex.3, 4, and emails, Ex. 5; Sanctions hearing Ex.3,5,9,15,20,21,23,28,29,30,31,32;
 2 Order # 985, FF 66,67,80-95, p. 39:3 - 40:19, 41:6-10; Sanctions Motion, Ex. 7)

3 Montgomery's argument that Mr. Flynn's California connection led him to believe Flynn was
 4 a California lawyer, (Obj. 15:20-8), is eviscerated by the admissions in his prior declaration and at the
 5 hearing, his inconsistent testimony at the hearing, the irrelevancy of California, and the material
 6 significance of the distinction between California and Massachusetts licensure which were directly at
 7 issue in both declarations. The material importance lies in the jurisdictional significance to
 8 Montgomery and Pham/Klar in order to sue Flynn in California and circumvent Nevada law. The
 9 February 28, 2007 declaration proves Montgomery's explicit knowledge that Flynn was not licensed
 10 in California; and that Flynn explicitly informed Montgomery in Flynn's declaration, admittedly read
 11 by Montgomery, that he was not licensed in California *five months before Montgomery signed the*
 12 *perjured declaration.* The Court's specific Finding on this disjunctive knowledge supports a finding
 13 of perjury. (Order #985, FF#80, 82-83.) Finding # 82 states:

14 **"The court finds that paragraph seven of Mr. Montgomery's declaration is particularly**
 15 **important because he attested"**[a]t no time did Mr. Flynn ever inform me that he was not
 16 **licensed and is not licensed to practice in the state of California, or that he is licensed to**
practice only in Massachusetts." (Emphasis added).

17 **(b)** Montgomery's February 28, 2007 declaration proves his knowledge beyond doubt of these
 18 specific facts relating to Flynn's Massachusetts license and NO California license **five months**
 19 **before he met Ms. Pham and Ms. Klar, and they induced him to sign the perjured declaration**
 20 **to circumvent Nevada jurisdiction(*Id.*)** The documentary evidence of *perjury* herein not only
 21 constitutes proof beyond a reasonable doubt, it is as conclusive as can be found in criminal cases
 22 supporting conviction. See *e.g., U.S. v. McKenna*, 327 F 3d 830, 838-839 (9th Cir. 2003) [false
 23 deposition testimony in civil case sufficient to prove conviction.] Proof of subornation of perjury by
 24 the Liner Firm lawyers also supports sanctions against them. *Mackler Productions v. Turtle Bay*
 25 *Apparel, supra*; Flynn Dec. ¶¶ 65-81.

26 **(c)** Among the mountain of documents proving Montgomery's perjury, and Ms. Klar/Pham's
 27 subornation of it, is Mr. Flynn's declaration (Evid, Hear. Ex. 4) filed with Montgomery's February 28,
 28 2007 declaration and emailed to him on February 28, 2007, explicitly informing Montgomery that

1 Flynn was only licensed in Massachusetts. (Emails, Evid. Hearing Ex. 5). That declaration admittedly
 2 read by Montgomery (Order # 985 FF # 89 and p 46-48) states:

3 “Both Mr. Stillman and I are licensed attorneys in Massachusetts where the Firm was originally
 4 based. Mr. Stillman is licensed to practice in California. Messrs. Sheridan and Tabb, my former
 5 partners through 2002, were, like myself, only licensed in Massachusetts. Mr. Stillman opened
 the West Coast office of the firm in 1992, in conjunction with a highly publicized case which
 I tried in a four-month jury trial in 1994.” (Emphasis supplied; Flynn Dec. Evid. Ex.4).

6 (d) The search docket containing this declaration with the language IN CAPITAL LETTERS
 7 THAT THE GOVERNMENT WAS MOVING TO “PRECLUDE PRO HAC VICE ADMISSION
 8 OF MICHAEL JAMES FLYNN” was hand delivered to Ms. Klar/Pham on **AUGUST 8, 2007**, a
 9 month *before* they filed the perjured declaration. (Sanctions hearing Ex. 7 [Aug. 8, 2007 fax]; FF # 66).

10 (d) Notice was given to the Liner Firm on **August 8, 2007** that Montgomery’s then
 11 “allegations” in the Los Angeles Superior Court complaint were false. On that date, *approximately*
 12 *one month before they filed the September 10, 2007 declaration*, Mr. Flynn served the Liner firm and
 13 Ms. Pham and Ms. Klar, with the following documents giving them NOTICE that the allegations in
 14 Montgomery’s Complaint that they filed in Los Angeles Superior Court on August 3, 2007, (which
 15 track the foregoing perjured statements in the declaration) were false. (See LA Compl. doc. # 275 -2,
 16 Ex. 1; Flynn Dec. in support of Sanction Motion, doc. # 547 ¶ 66-67; documents served on August 8,
 17 2007 admitted at Sanction hearing, Ex.7-13). These documents placed the Liner Firm on notice that
 18 no other reasonable conclusion could be drawn except that Montgomery’s allegations in the Complaint
 19 they filed on August 3, 2007 in Los Angeles were false. These documents, (except the search case
 20 docket and the a sample of the hundreds of pleadings on file), are also docketed in this case at docket
 21 # 277, Exhibits 1-2 and 4-5. Mr. Flynn’s emails to Montgomery and to local counsel who were then
 22 working with the Liner Firm during the previous two months incontrovertibly established that
 23 Montgomery had a pattern of repeatedly lying under oath, and that they had notice of his pattern of
 24 lying. There is just no other rational conclusion except perjury.

25 The documents served on Liner, Ms. Pham and Ms. Klar on August 8, 2007 are:

26 (i) Copies of letters spanning the period of representation given to Montgomery stating on the
 27 letterhead: “LICENSED ONLY IN MASSACHUSETTS; or “ADMITTED ONLY IN
 28

1 MASSACHUSETTS.” (Evid. Hear. Ex. 8). These informed Montgomery that Flynn was “only”
 2 licensed and/or admitted in Massachusetts proving that paragraph seven of Montgomery’s September
 3 10, 2007 declaration is knowingly false; and that Mr. Flynn explicitly held himself out as “only”
 4 licensed in Massachusetts.

5 (ii) Samples of pleadings given to Montgomery throughout the representation, displaying at the top of
 6 the first page of each, *only* a Massachusetts Bar number for Mr. Flynn. (Evid. Hear. Ex. 9) These
 7 pleadings placed Pham and Klar on notice that Mr. Flynn explicitly held himself out as a Massachusetts
 8 lawyer and NOT a California lawyer.

9 (iii) A transcript of the first hearing attended by Mr. Flynn, with Montgomery sitting right next to him
 10 at the counsel table paying rapt attention, of the preliminary injunction hearing on February 7, 2006,
 11 just two weeks after he first met Montgomery. The transcript recites local counsel’s statements that Mr.
 12 Flynn’s *pro hac vice* admission would be delivered that day from the Nevada Bar, which had been
 13 awaiting Mr. Flynn’s certificate of good standing from *Massachusetts*. (Sanction hearing, Ex. 10). The
 14 Court specifically found that Montgomery knew or reasonably should have known as of February 7,
 15 2006 that Mr. Flynn was a Massachusetts lawyer. (Order #985, FF # 3-8, 89).

16 (iv) Mr. Flynn’s *pro hac vice* application *specifically* reciting that Mr. Flynn was only licensed in
 17 Massachusetts. (Sanctions hearing, Ex. 11). This placed Klar and Pham on notice in drafting
 18 Montgomery’s declaration and consulting with him that Flynn was NOT holding himself out as a
 19 California lawyer, and *only* holding himself out as a Massachusetts lawyer.

20 (v) A complete copy of the *docket in the search case*, (case no. 263), containing the government’s
 21 Motion to Disqualify Mr. Flynn (doc. # 110, which was denied as moot at doc. # 122), based on the
 22 *precise issues* recited in the perjured declaration, to wit, Mr. Flynn *only having a* Massachusetts Bar
 23 license, and Boston and California offices, which were hand delivered to Ms. Klar/Pham;³

24 (e) Additional facts and documents were given to the Liner Firm again on September 24, 2007
 25 that Montgomery’s declaration constituted perjury. The foregoing evidence, plus additional evidence,
 26

27 ³ The government plainly filed this Motion as a tit for tat response to Mr. Flynn’s support of the
 28 Court’s *sua sponte* OSC to find the government in contempt, which it recited in its Motion.. (Doc. #
 92) The government’s Motion was denied as “Moot.” (Doc. # 122.)

1 proving Montgomery's perjury, and Ms. Klar's knowledge of that perjury, were filed with this Court
 2 on September 24, 2007 in Mr. Flynn's "Reply" to the Motion for Fees. (Doc. # 277-281, Exhibits 1
 3 -6.) The additional evidence includes: (i) a proposed fee agreement (doc. # 277, Ex. 3) given to
 4 Montgomery and discussed with him on February 8, 2006, in the presence of three other lawyers, stating
 5 "Only Licensed in Massachusetts." (FF # 9,10,11) (ii) Additional emails and drafts of a letter *sent to*
 6 *Montgomery three times in May 2006*, stating "ADMITTED ONLY IN MASSACHUSETTS, which
 7 he repeatedly *edited*. The search case docket and the sample of pleadings were the only documents not
 8 served again on September 24, 2007.

9 (f) The Liner Firm attempted to "cover up" the perjury evidenced by Montgomery's
 10 contradictory February 28, 2007 declaration filed in the search case in a hearing before this Court on
 11 November 9, 2007. To put the nail in the coffin regarding Montgomery's perjury, and Ms. Klar's
 12 knowledge of it, Ms. Klar tried to cover it up during the week of November 4, 2007, culminating on
 13 November 9, 2007 in a "telephonic hearing," (doc. #331), in which the Court unsealed Montgomery's
 14 February 28, 2007 declaration, (Doc. # 115 in case # 263), so Mr. Flynn could file it in Los Angeles
 15 in reply to Ms. Klar's Opposition to the Motion to Dismiss the LA Complaint. Significantly, throughout
 16 the week of November 4, 2007, when her opposition to all of the foregoing evidence (which had also
 17 been filed in Los Angeles), was due to be filed, Ms. Klar *opposed the unsealing* of Montgomery's
 18 February 28, 2007 declaration filed in the search case, in opposition to the government's Motion to
 19 Disqualify Mr. Flynn. Judge Cooke found that the February 28, 2007 declaration proved that
 20 Montgomery was lying in his perjured declaration submitted by Ms. Pham and Klar, when he alleged
 21 that Mr. Flynn led him to believe "throughout his representation" that he was a California licensed
 22 attorney; and that he didn't discover that he was not, until he hired the Liner firm in July 2007.

23 In his February 28, 2007 Declaration, Montgomery repeatedly swore under oath that he had
 24 read and understood the government Motion to disqualify Mr. Flynn *which contained detailed*
 25 *information about Mr. Flynn solely having a Massachusetts license*. (Order #985, FF #39; Gov.
 26 Motion, docket # 110 in case # 263). Montgomery said, "[h]aving now read the motion to disqualify
 27 my attorney....," (docket # 115, 2:21), and "[a]s I understand the Motion of the USAO ... to remove Mr.
 28 Flynn as my chosen counsel...., (*id.*, 3:3-4), Montgomery then stated that the "recent attempt to

1 disqualify my attorney would gravely damage my constitutional protections.” (*Id.*, 8:4-5). The
 2 government’s motion to disqualify specifically attacked Mr. Flynn’s Massachusetts license and
 3 California residence without a California license, (docket # 110), even though his *pro hac vice*
 4 application fully disclosed both *as noted in the October 12, 2007 Order of Judge Cooke in Case No.*
 5 *56.* (Docket # 296).

6 The Liner Firm *knew* from the *search case docket*, In re Search warrant, #3:06-cv-263 -PMP-
 7 VPC, served on them on August 8, 2007, that the government Motion to Disqualify Mr. Flynn based
 8 in part on his solely having a Massachusetts license was DENIED as moot, (#263 doc. # 122); and that
 9 Mr. Flynn’s opposition declaration (#263 doc. # 114) fully explained his Massachusetts license and
 10 California residence. Thus, they were on NOTICE of the *specific facts* involving potential perjury
 11 a month before they filed the perjured declaration, containing, among other lies: “At no time did Mr.
 12 Flynn ever inform me that he was not and is not licensed to practice in California, or that he is only
 13 licensed to practice in Massachusetts. I only learned of this after I retained new counsel.”

14 Montgomery’s claim that he “*only*” found out five months later when he met Ms. Klar, given
 15 his prior sworn statements, and the foregoing conclusive documentation, of his knowledge “throughout
 16 the representation,” can only constitute perjury. Both declarations are executed under oath. They are
 17 materially contradictory. (Order #985, p. 46-48). Ms. Klar’s opposition to its unsealing in November
 18 2007 when Mr. Flynn needed the Montgomery Feb, 28, 2007 Declaration to file in support of his
 19 motion to dismiss in Los Angeles reveals an intent to conceal. She knew Montgomery had lied, and
 20 proceeded to try to cover it up. She repeatedly opposed the DOJ lawyers’ efforts, and Mr. Flynn’s
 21 efforts, to unseal it that week, until the Court did so in the emergency hearing on Nov. 9, 2007; and then
 22 she didn’t appear in the telephonic emergency hearing - only local counsel appeared who had no basis
 23 to oppose the unsealing. (Doc. #331; Order #985, 46:25-47:20). Then, in an extraordinary display of
 24 arrogance and bad faith, with the unsealed February 28, 2007 declaration **in hand**, she then submitted
 25 irrelevant, ad hominem attacks on Mr. Flynn in her *in camera* filings on the fees, again without
 26 rebutting a single fact dealing with the sanctioned parties knowledge of his perjury. (*See in camera*
 27 filings on fee motion, Oct. 23-Nov. 27, 2007, regarding Flynn’s *pro hac vice* applications in California).

28 (g) The evidence of perjury was served on the Liner Firm SIX Times. In addition to being

1 docketed and served in this Court, (doc. # 277, Ex. 1-6), the foregoing documents showing
 2 Montgomery's perjury were *also* filed and/or served on Liner, Pham and Klar on August 8, 2007;
 3 again on September 13, 2007 in opposition to the ex parte motion; again on October 2, 2007 in
 4 opposition to the Motion for a Writ of Possession; again on October 23, 2007 in support of the Motion
 5 to dismiss; again with the San Diego Fee Arbitration Board on September 29, 2007; again with the
 6 Massachusetts Bar Counsel on October 30, 2007. Ms. Klar received copies of them on each occasion.
 7 (Doc. # 547-548 Flynn Dec. ¶ 65-81). Thus, she received demonstrable evidence of the perjury **SIX**
 8 times; and **then subsequently** tried to cover it up.

9 **(h)** Montgomery and his counsel have *never* rebutted any of these facts proving
 10 Montgomery's knowledge of the bar license facts and his attendant perjury with a declaration from
 11 Montgomery. There is now and never has been any denial in a Montgomery sworn declaration in the
 12 face of the foregoing evidence repeatedly delivered to his lawyers beginning on August 8, 2007. In a
 13 civil case, this is an admission. F.R.Evid. 801(d)(2)(B); *U.S. v Geise*, 597 F.2d 1170, 1195-96 (9th Cir.
 14 1979) [admission by silence]. Over the eight months between the filing of the perjured declaration and
 15 the filing of the Motion for sanctions, notwithstanding their reliance, Montgomery and Ms. Pham/Klar
 16 never rebutted a single fact in any of the documents or declarations at any time in any forum or in any
 17 proceeding proving his knowledge of making false statements under oath. The Liner firm has
 18 repeatedly filed and relied upon the perjured declaration.

19 Montgomery never filed a supplemental declaration in any forum on any of the above cited
 20 documents, rebutting any of the documents, the facts contained therein, his possession of them, and/or
 21 declarations of the *four* lawyers who have recited specific facts opposing the perjured statements. (Doc.
 22 # 277 -281). This, in itself, is an admission of guilt. See Fed. R. Evid. 801 (d). It also creates the
 23 inference that Ms. Pham and Ms. Klar influenced him to commit perjury because further perjured
 24 attempts to rebut this evidence, would compound her complicity and subornation. Otherwise, they
 25 would have filed rebuttals. Again to put the nail in the coffin, even in response to the Motion for
 26 Sanctions, *Montgomery did not file a declaration refuting his knowledge.*

27 Even at the evidentiary hearing, his testimony was evasive, contradictory, not credible; and
 28 consisted of implied admissions by claiming he could not recall material facts when directly confronted

1 with charges of perjury. (Order #985, FF 39-44, 80-89)

2 (i) Montgomery counsel were required by law to withdraw the perjured declaration and to
 3 inform the Court. The Liner firm's failure to withdraw the perjured declaration, and notify the court
 4 of the fraudulent evidence contained therein, as *required* by NRPC 3.3 supports an additional
 5 inference of complicity, or subornation in the perjury. Sanctions against the Liner firm are warranted
 6 on this basis alone. Pursuant to Rule 3.3, they were *required* to withdraw the declaration and to notify
 7 both courts of its falsity. See *Nix v. Whiteside*, 475 U.S. 157, 168-169 (1986). They breached this
 8 obligation and then perpetuated the *perjury in multiple forums*. They then reinforced it with a malicious
 9 attack on Mr. Flynn at the January 22, 2008 hearing on the redaction of his files, in which they made
 10 multiple false statements to the Court, while the fee motion, in which they first filed the declaration,
 11 was pending. Their failure to withdraw the perjured declaration for the eight month period that the
 12 Motion for Fees was pending was a direct violation of Rule 3.3.

13 In *Nix v. Whiteside*, *id.* at 168-169, citing Rule 3.3 and the Model Code of Professional
 14 Responsibility, it states that these rules do "not merely *authorize* disclosure by counsel of client
 15 perjury; they *require* such disclosure." (Italics in original). The Supreme Court further explicated the
 16 obligatory nature of these standards:

17 These standards confirm that the legal profession has accepted that an attorney's ethical duty
 18 to advance the interests of his client is limited by an equally solemn duty to comply with the law
 19 and standards of professional conduct; *it specifically ensures that the client may not use false*
 20 *evidence*. This special duty of an attorney to *prevent* and *disclose* frauds upon the court derives
 21 from the recognition that perjury is as much a crime as tampering with witnesses and jurors by
 22 way of promises and threats, and undermines the administration of justice. *Id.*, 168-169
 23 (emphasis added).

24 As found by Judge Cooke, the September 10, 2007 Declaration "directly conflicts" with the Feb
 25 28, 2007 Declaration. (FF 46:12-13). On August 8, 2007, Ms. Pham read and reviewed the exhibits
 26 attached to the removal of the Los Angeles case to federal court, which proved beyond question that
 27 Mr. Flynn never led Montgomery to believe he was a California lawyer - in fact just the opposite. (FF
 28 #66-67). The evidence establishes beyond a reasonable doubt that Montgomery was committing perjury
 when he and Ms. Pham collaborated on his September 10, 2007 Declaration. Judge Cooke had the
 benefit of weighing Montgomery's credibility under oath on the specific issue of perjury in connection
 with the execution of his February 28, 2007 declaration in contrast to his September 10, 2007

1 declaration. The Court thereafter made very specific Findings of Fact at Numbers 1-44, 58-67, 80-95
2 and at pages 46-48 of the sanctions Order. The two declarations and the conduct of Montgomery and
3 the Liner lawyers cannot be reconciled. The latter declaration is perjured.

4 In order to shield themselves from liability and damages to the Trepp parties for their rampant
5 litigation misconduct, in September 2008, the Liner firm did admit false sworn statements by
6 Montgomery as “mistakes” and withdrew their sworn charges in Montgomery’s March 10, 2008
7 declaration. The evidence therein opposing Montgomery’s charges was merely testimonial, without
8 documentation, and comprised a small fraction of the evidence proving falsity as in his September,
9 2007 declaration. On September 5, 2008, in the middle of the hearing which *they requested*, regarding
10 Montgomery’s March 10, 2008 declaration accusing the FBI of stealing and damaging his software,
11 (doc. # 467-471), Mr. Sunshine abruptly stood up, admitted Montgomery’s statements were false,
12 withdrew the charged FBI thievery, and requested a settlement conference. Montgomery and Blixseth
13 then admitted that Montgomery’s emails were fabricated and confessed to a \$5million dollar judgment
14 for damaging Warren Trepp in the media; and \$20 million dollars for taking the software.

15 In this matter, they are perpetuating and continuing to suborn the perjury, perpetuating their
16 conflicts and complicity in concealing the true facts in order to shield themselves, and perpetuating their
17 violations of the Nevada Rules of Professional Conduct. Given the Sanctions Order, they continue to
18 defy the Court. They continue their pattern of contempt and vexatious misconduct. They should NOT
19 be representing Montgomery in order to carry out their continued vexatious strategies.

20 The Liner Objections filed for Montgomery regarding their complicity in his perjury at pages
21 4-6, 8-10, and 12-17 amount to mere rhetoric. They do not contradict any of the specific Findings of
22 Fact other than making vague, unsupported, ambiguous assertions by Ms. Garofalo who signed the
23 pleading. Indeed, there is not a single transcript citation to any Montgomery or Pham testimony
24 whatsoever, or to a single exhibit, let alone one presenting rebutting evidence. Liner and Ms. Garofalo
25 apparently felt omniscient and immune enough in her perspective of the facts to just fashion her own
26 statements and her own interpretation of Judge Cooke’s Findings which she sporadically references.
27 Given the Sanctions Order, the Objection is implicitly contemptuous. Judge Cooke’s painstaking and
28 time consuming references to the record in her Findings cannot be displaced by Ms. Garofalo’s

1 unsupported, contradictory, self-interested imaginings. The bottom line is that Liner should not have
 2 filed the Objections for Montgomery.

3 Putting aside the bombast, the Montgomery / Liner argument on the first 17 pages of their
 4 Objection boils down to unsupported, misleading and frequently false, deceitful rhetoric.

5 **4. The Sanctions were “Reasonable” and “Sufficiently Itemized.”**

6 The Liner firm’s contention that the fees were not reasonable or sufficiently itemized,
 7 misapplies the law. (Obj. 18-19). Sanctions must be “reasonable” and sufficiently itemized.” See *In*
 8 *re Yagman*, 796 F.2d 1165, 1184-85; *Hugo Neu-Proler, Co. v. Local 13 Int’l. Longshoremen*, 2000 U.S.
 9 App. LEXIS 24825, *6 (9th Cir. 2000) [“What constitutes ‘reasonable attorney’s fees’ is left to the broad
 10 discretion of the district court, constrained only by the requirements that attorneys’ fees be (1)
 11 ‘reasonable;’ (2) limited to fees ‘incurred as a direct result of the violation;’ and (3) ‘limited to what
 12 is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.”].

13 Here the Order clearly meets these requirements. First, throughout the Order, it clearly itemizes
 14 the sanctioned parties misconduct which unreasonably increased this Nevada litigation. Next, the
 15 monetary sanctions were compensatory and sufficiently itemized. The Order states that the fees were
 16 “associated with the motion for sanctions.” (Order, #985, 51:9-25). The Order also states that the
 17 Court “reviewed all of the papers and ... made certain adjustments.” (*Id.*) The Court reduced the hourly
 18 rate requested. (*Id.*). The Court also did not award all fees requested, and it reduced costs. (*Id.*). The
 19 Court deducted fees which it did not find were associated with the motion for sanctions, including fees
 20 for the “motion to withdraw ..., the retaining lien and similar matters.” (*Id.*)

21 The Liner firm cites to *In re Yagman*, 796 F.2d 1165 (9th Cir. 1986). But in *Yagman* the 9th
 22 Circuit criticized a “blanket” award of fees for unspecified conduct, *Yagman* at 1184-85, which is not
 23 what happened here. *Yagman* is unhelpful to the Liner’ firm’s cause because this case is not like
 24 *Yagman*. In *Yagman*, the Court concluded that the district judge did “not determine in any way whether
 25 the sanctions award complies with the reasonableness requirement,” the court “made no attempt to
 26 itemize and quantify the sanctions,” and did “not scrutinize” the fees requested, and did not make
 27 “specific findings as to the exact misconduct which multiplied the proceedings and the amount of
 28 ‘excess costs, expenses and attorney’s fees’ occasioned by the misconduct.” *Yagman*, 796 F.2d at 1185,

1 1188. Here, the facts show that the Court did consider whether the fees and costs were reasonable,
 2 scrutinize the fees, and made specific findings. (Order #985, including 1:20-24, 37:4-52:16, findings
 3 88, 101, 111, 112, 116, 126, 133, 137, 139, 140, p. 49:19-52:16).

4 Finally, Montgomery's ability to pay is a component of Montgomery's deceit and fraud. The
 5 record is replete with evidence that Montgomery received over \$5 million dollars from Blixseth. See
 6 Flynn Dec. doc.# 904, par. 4 and Ex. 1. Montgomery testified that as of June 2008, Blxware was still
 7 paying him \$100,000 per month. Moreover, Liner and Montgomery did not raise this issue in their
 8 opposition to the Motion for sanctions and presented no declarations from Montgomery regarding his
 9 finances. It has been waived. Just recently, Montgomery filed a declaration in response to the Trepp
 10 parties Motion to Compel stating he has no money, no assets, no income and no job. Like the perjured
 11 declaration, Montgomery's receipt of over \$5million dollars will prove to be more deceit. See Exhibit
 12 J to Flynn Motion to Compel. (Doc. # 10)

13 **5. The Court did *Not* "Err" by Imposing Sanctions Jointly and Severally Liable.**

14 The Liner firm's contention on behalf of Montgomery that the court erred by imposing
 15 sanctions jointly and severally is frivolous. (Obj. 19-20). The Court correctly found the sanctioned
 16 parties, including Montgomery, "jointly and severally" liable. The Liner firm's attempts to distance
 17 itself from its own partners liability by asserting it on behalf of Montgomery magnifies the problem.
 18 As discussed in Section 2, the conflicts section, at pages herein; and in the Response to the Liner
 19 Objections, so it will not be repeated in full here, sanctions were proper against the Montgomery and
 20 the Liner law firm under both § 1927 and the Court's inherent powers; but the continued Liner
 21 representation of Montgomery places them in irreconcilable conflicts - they are complicit in
 22 Montgomery's perjury - and Montgomery could assert an advice of counsel defense (however weak)
 23 that Pham and Klar instructed him to sign his perjured declaration.

24 The Court found the Liner firm jointly and severally liable with Montgomery. (Order #985,
 25 52:4-12). It is discretionary and entirely proper to hold parties jointly and severally liable for sanctions.
 26 See, e.g. *Univ. Of Nevada v. Tarkanian*, 110 Nev. 581, 594 (1994) [joint and several fee liability is
 27 required whenever joint and several liability is imposed. Rather, we emphasize that the matter of joint
 28 is several liability is "purely a discretionary one"]; *Hyde & Drath v. Baker*, 24 F.3d 1162, 1172 (9th Cir.

1 1994) [“ we affirm the district court's decision to hold Hyde & Drath jointly and severally liable for the
 2 costs and expenses resulting from the failure of the parties to attend the 1991 depositions”]; *Albany v.*
 3 *Arcata Ass’n*, 106 Nev. 688, 689 (1990) [district court below imposed sanctions “jointly and
 4 severally”—decided on other grounds].

5 Liner’s “indivisibility” argument, (Obj. 20) is unintelligible and recognizes the law supporting
 6 joint and several liability. First, the argument is confusing, apparently referencing Flynn when they
 7 meant Montgomery. Second, the Court found in painstaking detail that numerous separate acts by all
 8 of the sanctioned parties caused the damages awarded in the form of sanctions.

9 **6. Additional Waiver Grounds, Not Cited Above .**

10 (1) The sanctioned parties never objected to the three orders at docket #256, #291, #296, and
 11 therefore their right to now object is waived. *See Simpson v. Lear Astronics, Corp.*, 77 F.3d 1170, 1174
 12 (9th Cir. 1996); *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1210 (9th Cir. 2002).

13 (2) In addition, neither the Liner law firm (or its partners) filed an opposition to the sanctions
 14 motion—only the Montgomery parties did—which should waive their rights to protest now. *See NV*
 15 *Local Rule 7-2(d)* [“the failure of an opposing party to file points and authorities in response to any
 16 motion shall constitute consent to granting the motion.”] The Liner firm should not be able to bootstrap
 17 its Objections into the Montgomery parties’ Objections using them as a tool to shield itself from
 18 liability for their collective misconduct with him.

19 **7. The Liner Firm’s Arguments Relating to “Equity Interests” and Other Denials are False,**
 20 **Misplaced and/or Inapplicable.**

21 The “equity interests” sought before Mr. Flynn’s knowledge of their fraud had sufficiently
 22 evolved are irrelevant, and the email they originally referenced in their Response to the Motion for
 23 Sanctions was sent partly due to government actions at the time. They knew there was no signed fee
 24 agreement applying California law, and the unsigned draft agreement explicitly stated that Mr. Flynn
 25 was only a Massachusetts lawyer and he had to appear on a Nevada *pro hac vice* admission, which
 26 governed the fee and file issues. When the “equity interests” were sought Montgomery and Blixseth
 27 were 3-4 months behind, and Mr. Flynn did not know he was the victim of a monumental fraud that
 28 had been on-going for at least five years. The “learning curve” started after April 9, 2007. It was met

1 with non-stop excuses and explanations by Montgomery which served to delay withdrawal and
 2 comprehension of the extent of his frauds and deceptions. He and Blixseth claimed al Qaida would
 3 murder them. Still believing them, Flynn embarked on a wild goose chase to Washington. Even those
 4 explanations fell apart by late, June 2007. (See Reply re Motion for Fees, emails, doc. # 277)

5 The discussed reorganization of Opspring LLC in March - April 2007 resulted from Edra
 6 Blixseth firing Michael Sandoval for "embezzlement" on or about March 26, 2007; and the
 7 commencement of the Liner firm involvement in the divorce litigation around that time. Mr. Flynn was
 8 still being duped. And not paid. Liner's claimed reliance on these distortions and half-truths to
 9 minimize Montgomery's perjury is baseless. As the Court found, the *proposed* fee agreement given to
 10 Montgomery on Feb. 8, 2006 informed him that Mr. Flynn was "only licensed" in Massachusetts.
 11 (Order #985, FF #9-12).

12 **8. Attorney Garofalo's Request for a New Judge Flouts Standards of Decency.**

13 Citing the infamous *Yagman* case and Judge Real's conflicts with that lawyer, Liner requests
 14 appointment of a judge to replace Judge Cooke. That request flouts moral, ethical, legal and plain
 15 old standards of human decency. First, based on almost forty years in courtrooms across America, in
 16 Mr. Flynn's experience, Judge Cooke should be applauded for her judicious and tempered dealings with
 17 the Liner firm, attentiveness to detail, and overall patience in dealing with Ms. Klar and Ms. Pham.
 18 Any claim of bias is absurd.. The Court routinely ruled against Mr. Flynn. (See, *e.g.* doc. #1029). In
 19 fact, Pham and Klar probably should have been disqualified in late October 2007 for their brazen
 20 contempt of this Court's Orders, and referred to the Nevada and California bars before they were able
 21 to perpetrate their misconduct and vexatious strategies for another 10 months. Her patience with them
 22 was often seemingly contrary to the weight of the pleadings. For example the Trepp parties filed a
 23 Motion for Sanctions for Montgomery's perjury in connection with a specific declaration. (Doc.# 343).
 24 The Court denied the Motion. (Order, doc. # 521) When the Court rejected that Motion, it appeared that
 25 the Liner and Montgomery pattern of fraud, deceit and perjury could not be stopped. But their past
 26 success just pushed them further into the contempt proceedings in the summer of 2008, ultimately
 27 hanging themselves by their own petard.

28 In forty years of litigating, Mr Flynn has seen much outrageous conduct, corruption, litigation

1 deception, and general impropriety by members of the bar. But Liner's request for a new Judge may
2 take first place on the outrage totem pole. It is akin to the murderer who has murdered his parents, and
3 then screams for mercy because he has no parents. The Liner firm waged an unmerciful war against
4 Mr. Flynn to "crush him into submission," accusing him of criminal conduct in four different forums,
5 employing non-stop lies, deception, fraud and perjury to cheat him out of his fees and costs while
6 Blixseth paid Montgomery \$5 million dollars, and Liner billed almost \$8 million dollars.

7 At the same time, when Judge Cooke attempted to deal with them and the discovery issues in
8 the Trepp cases, they reacted with impunity and contempt. They now ascribe this "war" to Mr. Flynn
9 and the current environment to "attorney bickering." Should Mr. Flynn have responded to allegations
10 of criminal conduct based on suborned perjury by the Liner firm and being cheated out of \$630,000 in
11 fees based on manifest fraud, by not calling it exactly what it is - fraud, deceit and perjury? If this Court
12 carefully reviews the entire record, the same findings and conclusions made by Judge Cooke will be
13 confirmed - in spades.

14 Given Judge Cooke's judicial temperament in the context of the arrogant contempt of the Liner
15 misconduct directed at her because she happened to be the Magistrate-Judge assigned to the case with
16 a party whose propensity for perjured declarations is now established in the record, she should be
17 elevated forthwith. In truth, the sanctions should be twice what she awarded. Klar and Pham should
18 be indicted for subornation and obstruction of justice along with Montgomery for perjury and
19 obstruction. The sanctions are modest. Judge Cooke was merciful in her Order and the amount of the
20 sanctions. Mr. Flynn should be awarded the entire \$360,000 in requested sanctions plus the \$40,000
21 in fees for time expended after the Motion for Sanctions was filed.

22 Mr. Flynn hereby respectfully requests that Judge Cooke's Order be modified and increased to
23 reflect the additional time he and Ms. DiMare have had to expend responding to four utterly meritless
24 and contemptuous sets of Objections filled with more half-truths, deceit and frivolous arguments, like
25 Liner's request for a new judge. See *Liteky v. U.S.*, 510 U.S. 540 (1994) [Dissatisfaction with adverse
26 rulings will only suffice to establish judicial bias in the "rarest of circumstances."]; *United States v.*
27 *Reyes*, 313 F.3d 1152, 1159 (9th Cir. 2002); *Hunt v. Pliler*, 384 F.3d 1118, 1126 (9th Cir. 2004). If the
28 Liner firm's request was granted, particularly in the circumstances of this case, lawyers could lie, cheat,

1 suborn perjury, and when caught, attribute it to “attorney bickering” or a biased judge. It would give
2 firms who routinely use tactics like Liner, a powerful tool to engage in the conduct for which they have
3 been sanctioned. It is a vexatious strategy designed to multiply these proceedings based on a deliberate
4 motive to take advantage of their own wrongdoing. But it is instructive as an implied admission that
5 they need to attack the Court to conceal their own misconduct. Ms. Pham and Ms. Klar should be
6 referred to the U.S. Attorney for subornation of perjury and obstruction of justice.

7 CONCLUSION

8 The overwhelming and incontrovertible evidence of the Liner Firm’s “transparent” attempt to
9 “countermand” this Court’s Orders and jurisdiction and their bad faith tactics *cannot* be reconciled with
10 their Objections, affidavits, or facts showing their knowledge of Montgomery’s perjury. It is akin to
11 claiming that *none* of their actions, statements, and pleadings were *intended* to get the fee, file, state
12 secrets issues, the NRPC, and jurisdiction out of this Court and into a California Court - an obvious
13 oxymoron, and improper purpose. That is exactly what they *intended* to do with their writs of
14 possession and relief requested. Their attempt to “wrest jurisdiction away from this court” through a
15 perjured declaration, and “transparent attempt to countermand” its Orders is sanctionable under all
16 sanctioning authority. *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001); *Chambers v. NASCO*, 501 U.S.
17 32, 46, 54 (1991) [sanctions under inherent powers are particularly appropriate for fraud practiced upon
18 the Court]; LR IA 4-1 [court’s inherent powers. This Court should also consider further appropriate
19 sanctions.

20 Respectfully Submitted,

21 June 25, 2009

/S/ _____

22 Michael J. Flynn
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